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*Things You Should Know About...*BANKRUPTCY

Bankruptcy can affect both individuals and companies. As a consumer, you may attempt to get your money back or make a warranty claim for a product or service you were not satisfied with, only to find that the seller has gone bankrupt. Or, you may face bankruptcy yourself. To make the most of either situation, you should know some basic facts about bankruptcy and how it works.

What is Bankruptcy?

Bankruptcy is a legal procedure that takes place in federal court. In bankruptcy liquidation cases (Chapter 7), all of the debtor's non-exempt assets are sold and their creditor's claims are reviewed for payment. Most claims that aren't paid through liquidation are discharged. In reorganization cases (Chapters 11 and 13), the court approves a repayment plan that provides for partial payment of debt over time. The remaining balance may be discharged.

How Bankruptcy Works

Both individual and company debtors may file a petition for bankruptcy with a United States bankruptcy court. The petition must include a list of all debts and assets, as well as other pertinent information. Because bankruptcy law is quite complicated, most people who file for bankruptcy hire a lawyer.

When debtors file for bankruptcy, they are protected from creditors in a variety of ways, including the following:

- most new lawsuits against the debtors may not be filed, and pending lawsuits are usually postponed;
- creditors must stop attempting to collect on debtors' unpaid bills ; and
- collection on existing liens is usually stopped.

If you purchased an item or service from a company that filed for bankruptcy and you want to recover your money, you will have to find out in which U.S. bankruptcy court the company has filed. You must then file a proof of claim form with the court – complete with the bankruptcy case number – to receive consideration for any possible payment on your claim. The bankruptcy case number may be obtained from the court for a small fee. The addresses and telephone numbers of U.S. bankruptcy courts located in Illinois can be found on the Illinois Attorney General's web site, www.ag.state.il.us.

Types of Bankruptcy

There are three main chapters, or types, of bankruptcy petitions. Each of the three chapters has different requirements and purposes.

Chapter 7: Liquidations

Chapter 7 is appropriate for individuals and businesses of any size. Companies that want to go completely out of business or liquidate should use Chapter 7. This is usually the easiest and fastest way to settle debts. In a Chapter 7 case:

- state law determines which possessions the debtor may keep; and
- a trustee sells the rest of the assets to pay as many of the debts as possible.

Remember - a corporation does not receive a discharge, so if a company starts up again after filing a Chapter 7 petition, even under another name, it will still be liable for its old debts. Individuals do receive a discharge but may have a significant amount of difficulty obtaining credit at reasonable interest rates after liquidation.

Chapter 13: Wage Earner Plans

Chapter 13 is available to small businesses operated by a sole proprietor or individuals with a regular income who owe less than $807,750 in secured debt (debt for which there is collateral, like a house) or less than $269,250 in unsecured debt. Wage earner plans give debtors the chance to continue operation and get back on their feet. With Chapter 13, debtors:

- do not give up their current assets and property to pay debts;
- agree to an established and monitored payment plan; and
- use their future income to pay creditors over time.

Chapter 11: Reorganizations

Chapter 11 is an alternative plan for individuals with debts too large for Chapter 13 or businesses not allowed to file under Chapter 13. This petition is used by individuals and businesses that want to retain control of their assets, which they try to reorganize or liquidate, rather than turning them over to a trustee. Chapter 11 is primarily used for reorganization. With Chapter 11:

- debtor provides the court with a reorganization plan
- with court approval, the business may be discharged from all of its pre-bankruptcy debts except for the debts to be paid under the reorganization plan
- creditors are often given the chance to vote on whether or not to accept the proposed plan; however, if the plan meets certain standards, the court may still approve it regardless of the creditor's opinions.

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